



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

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Chief Executive Officer

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April 14, 2010

To: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum includes status updates on six County-advocacy Climate Change bills relating to: 1) water consumption; 2) disposable food service packaging and single-use carryout bags; 3) consumer product labeling; 4) water quality; 5) the Property Assessed Clean Energy (PACE) Program; and 6) habitat mitigation; and eight County-Interest Climate Change bills relating to: 1) fines and penalties; 2) California Environmental Quality Act (CEQA); 3) single-use carryout bags; 4) CEQA exemptions; 5) water and energy efficiency; 6) expedited review process for development projects; 7) climate change adaptation strategies; and 8) air pollution.

Status of County-Advocacy Legislation

County-support if amended AB 1975 (Fong), as amended on April 7, 2010, which would require every water purveyor, with a certain exception, that provides water service to a person residing in a multiunit residential, mixed-use residential, or commercial structure for newly constructed buildings for which a construction permit has been issued on or after January 1, 2012, to require the installation of meters or submeters on each individual rental unit as a condition of new water service to that property, passed the Assembly Water, Parks and Wildlife Committee on April 13, 2010 by a vote of 13 to 0.

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AB 1975 now proceeds to the Assembly Floor, where the Sacramento advocates will continue to request that the bill be amended to specify that the owner of the multi-family units or mixed-used residential structure own, operate, and maintain the submeters, and remove the requirement that the owner install submeters as a condition of new water service to that property, and instead make it a condition for approval of the construction permit.

County-support if amended AB 2138 (Chesbro), as amended on April 5, 2010, which would prohibit a food provider after July 1, 2011, and until January 1, 2013, from distributing disposable food service packaging or a single-use carryout bag, unless the packaging or bag meet the criteria for either compostable packaging or recyclable packaging, and prohibit a food provider from distributing a disposable food service packaging or a single-use carryout bag to a customer, unless CalRecycle determines the packaging or bag is recovered for composting or recycling at a rate of 25 percent or more, passed the Assembly Natural Resources Committee on April 12, 2010, as amended, by a vote of 6 to 3.

The technical amendments taken in Committee clarify that the definition of single-use carryout bags in the bill is intended to cover packaging and bags distributed by food providers that contain prepared food. This measure now proceeds to the Assembly Appropriations Committee where the Sacramento advocates will continue to request that the bill be amended to specify a State-funded enforcement mechanism.

County-supported AB 2256 (Huffman), which would prohibit, on or after January 1, 2012, a person engaged in the packaging or labeling of a consumer product, from distributing in commerce in California, a product that is contained in a package, or that has an affixed label, that states the product is flushable, sewer and septic safe, or other like terms or phrases unless a product can be safely flushed down a low consumption toilet system, was amended on April 12, 2010.

The amendments to AB 2256 delete the bill's definition of 'safely,' and indicates the product cannot contain packaging or labeling that states the product is flushable, sewer and septic safe, or other like term or phrase unless the product has been tested and certified by a third party to meet the acceptance criteria for toilet, drainline, sewage pump, septic tank, aerobic system, and municipal wastewater collection and treatment systems clearance as published in the Guidance Document for Assessing the Flushability of Nonwoven Consumer Products, published by the Association of the Nonwoven Fabrics Industry, as that document exists on January 1, 2012.

In addition, the amendments would require a person who has packaged or labeled a product for distribution or sale in California that is labeled as flushable, sewer and septic safe, or other like term or phrase, to maintain, in written form, documentation of the testing substantiating the validity of the claim. A wholesaler or retailer who does not initiate a representation by advertising or by placing the representation on a package would be exempt from the provisions requiring written documentation validating the claim. The rest of the amendments are technical in nature.

AB 2256 is supported by: California Association of Sanitation Agencies, Inland Empire Utility Agency, Las Virgenes Water District, Moulton Niguel Water District, Southern California Alliance of Publicly Owned Treatment Works, Victor Valley Wastewater Reclamation Authority, and the Cities of Corona and Thousand Oaks. There is no registered opposition at this time. This measure is set for a hearing in the Assembly Business and Professions Committee on April 20, 2010.

County-sponsored AB 2554 (Brownley), as introduced on February 19, 2010, which would make technical changes to the Los Angeles County Flood Control Act, was amended on April 8, 2010 to authorize the Los Angeles County Flood Control District to implement stormwater fees in the unincorporated areas of the County, in compliance with Proposition 218, to fund clean water programs. This measure is set for a hearing in the Assembly Local Government Committee on April 28, 2010.

County-supported SB 77 (Pavley), as amended on March 22, 2010, which would require the establishment of a PACE Reserve Program designed to assist local jurisdictions in financing the installation of distributed generation of renewable energy sources or energy or water efficiency improvements that are permanently affixed on real property through the use of a voluntary contractual assessment, passed the Assembly Floor on April 8, 2010 by a vote of 60 to 10.

The Assembly added an urgency clause to the bill, which would make it effective immediately upon signature by the Governor. After the Assembly adopted the urgency clause and passed the bill, it went to the Senate Floor for concurrence in Assembly amendments on the same day. On April 8, 2010, the Senate concurred with Assembly amendments and passed the bill off the Senate Floor by a vote of 33 to 0. On April 12, 2010, SB 77 was sent to the Governor's Desk where it awaits action.

County-supported SB 1446 (Correa), as introduced on February 19, 2010, which would require that a local government or public agency applying to the Department of Fish and Game (DFG) for an "incidental taking" permit shall be deemed to meet the fiscal mitigation and compliance requirements of the Endangered Species Act, if it certifies compliance with specified benchmarks, passed the Senate Natural Resources

Committee on April 13, 2010, as amended, by a vote of 13 to 0. This measure now proceeds to the Senate Appropriations Committee. Once the amendments to SB 1446 are in print, the Los Angeles County Department of Public Works will review the bill to determine if it is still supportable.

Status of County-Interest Legislation

AB 1692 (B. Berryhill), as amended on April 5, 2010, would require fines and penalties imposed by the Department of Toxic Substances Control, the Air Resources Board, and the State Water Resources Control Board to be deposited in the State General Fund, and exempts these funds from the requirement that the Legislature must authorize their expenditure. This measure failed passage in the Assembly Natural Resources Committee on April 12, 2010 by a vote of 3 to 6.

This measure is supported by the American Council of Engineering Companies of California, California Peace Officers' Association, and California Police Chiefs Association. It is opposed by the American Lung Association, Bay Area Air Quality Management District, Clean Water Action, Planning and Conservation League, Professional Engineers in California Government, and Sierra Club California.

AB 1846 (V. Perez), as amended on April 5, 2010, would amend CEQA to clarify that expedited review procedures for projects to install mandated pollution control equipment, including authority to utilize a "focused" Environmental Impact Report (EIR), apply to projects that reduce greenhouse gas emissions to comply with AB 32. This measure passed the Assembly Natural Resources Committee on April 12, 2010, as amended, by a vote of 9 to 0. The amendments expand the list of State agencies whose regulations may serve as the basis for a focused EIR for purposes of the bill to include the California Energy Commission and the California Public Utilities.

This measure is sponsored by the Council for Environmental and Economic Balance, and supported by the California Apartment Association, California Business Properties Association, California Chamber of Commerce, and Southern California Edison. There is no registered opposition. AB 1846 now proceeds to the Assembly Appropriations Committee.

AB 1998 (Brownley), as amended on April 5, 2010, would prohibit stores, as defined, from providing single-use carryout bags to customers.

Specifically, AB 1998 would: 1) move the sunset date for the existing plastic bag recycling program from January 1, 2013 to July 1, 2011; 2) prohibit a store, after January 1, 2012, from providing single-use carryout bags, as defined, to customers at

the point of sale; 3) require stores to make reusable bags available for purchase; 4) require the Department of Resources Recovery and Recycling (CalRecycle) to report to the Legislature regarding the effectiveness of the bill; 5) specify that the report to the Legislature include recommendations to further encourage the use of reusable bags and to reduce the consumption of single-use bags; and 6) sunset the reporting requirement on January 1, 2019.

The bill defines: 1) "reusable bag" as a bag that is designed and manufactured for at least 100 uses and is made of a washable material that "does not contain lead or any toxic metal in a toxic amount, as determined by CalRecycle; 2) "single-use carryout bag" as a bag that is designed for one or more uses, but fewer than 100 uses, is made of plastic, paper, or other material, and is provided by a store to a customer at the point of sale; and 3) "store" as supermarkets, stores over 10,000 square feet that include a pharmacy, and a convenience food store or foodmart engaged in retailing a limited line of goods that generally includes milk, bread, soda and snacks.

Although the County sponsored AB 87 (Davis), which would have prohibited a store from providing a single-use carryout bag to a customer unless the store charges a fee of \$0.25 at the point of sale, our existing policy is specific to plastic bags but does not address paper bags. In addition, existing County policy does not address AB 1998's requirement for stores to make reusable bags available for purchase.

AB 1998 is sponsored by Heal the Bay, and supported by several organizations, including: California Coastal Coalition, California State Lands Commission, Clean Water California, Defenders of Wildlife, Environment California, Planning and Conservation League, and Sierra Club California. It is opposed by: American Forest and Paper Association, Biodegradable Products Institute, California Film Extruders and Converters Association, California Taxpayers' Association, and Metabolix.

This measure passed the Assembly Natural Resources Committee on April 12, 2010, as amended, by a vote of 6 to 3. The amendments extend the sunset date for existing law to December 31, 2011. The rest of the amendments are technical in nature. AB 1998 now proceeds to the Assembly Appropriations Committee.

AB 2165 (Knight), which would exempt the activities or approvals of the High Desert System Multi-Service Ambulatory Care Center project from CEQA requirements, was amended on April 12, 2010. The amendments now exempt from CEQA only the activities or approvals of the initial construction of the High Desert Health System Multi-Service Ambulatory Care Center project, which is defined as the outpatient health facility that will be located in the City of Lancaster, at the intersection of Avenue I and

3rd Street East. The amendments also repeal the CEQA exemption of the initial construction on January 1, 2015.

AB 2165 remains in the Assembly Natural Resources Committee awaiting a hearing date. It is supported by Los Angeles County Supervisor Michael D. Antonovich and opposed by several organizations, including California League of Conservation Voters, Planning and Conservation League, Sierra Club California, and California Coastal Protection.

AB 2679 (Eng), as amended on April 8, 2010, would require: 1) all public buildings, as defined, to conform to a 15-year compliance schedule to achieve reductions in energy and water consumption and to maintain specified water and energy reduction levels on and after January 1, 2025, and 2030, respectively; 2) on or before January 1, 2013, each public entity operating a public building to provide to the Department of General Services (DGS) a certified onsite assessment of the facility's energy and water consumption levels; 3) applicable public entities to adopt and implement processes outlined in the Green Building Action Plan and to ensure that these processes are consistent with other efficiency measures outlined in existing law; and 4) DGS to annually report to the Legislature and the Governor on the progress toward attaining the energy consumption and water use reduction targets in public buildings and recommend any changes to ensure the goals of the bill are met.

All public buildings are required to conform to the following compliance schedule to achieve reductions in energy and water consumption:

- On or before January 1, 2015, reduce energy consumption from the established baseline measurements by 15 percent and water consumption by 10 percent;
- On or before January 1, 2020, reduce energy consumption from the established baseline measurements by 30 percent and water consumption by 20 percent;
- On or before January 1, 2025, reduce energy consumption from the established baseline measurements by 60 percent and water consumption by 30 percent; and
- On or before January 1, 2030, all existing and new public building facilities shall have net zero energy consumption or be grid neutral.

All public buildings would be required to maintain the 30 percent water reduction level on and after January 1, 2025, and maintain net zero energy consumption level or be grid neutral on and after January 1, 2030. The bill defines: 1) "public buildings" as

State, county, city, and city and county public buildings funded with money from the State General Fund; 2) "public entity" as a State, county, city, or city and county public entity that operates a public building; and 3) "established baseline measurements" as the baseline measurements of electricity and water consumption levels from January 1, 2006 to December 31, 2008, inclusive, established by public agencies operating public buildings.

There is no registered support or opposition to AB 2679. This measure passed the Assembly Business, Professions and Consumer Protection Committee on April 13, 2010 by a vote of 7 to 4, and now proceeds to the Assembly Natural Resources Committee.

SB 959 (Ducheny), as amended on April 13, 2010, would establish an expedited review process for development project applications by requiring: 1) the Office of Planning and Research in the Governor's Office to develop guidelines that would provide technical assistance to counties and cities in establishing and operating an expedited development permit process; and 2) every city, county, or city and county to provide for coordination of review and decisionmaking and the provision of information regarding the status of all applications and permits for residential, commercial, and industrial developments by a single administrative entity. This measure contains an urgency clause.

The Office of Planning and Research's guidelines to provide technical assistance to counties and cities in operating an expedited development permit process must include: a central point of contact, a referral process, a master permit document, a permit application tracking method, a determination of applications' completeness, timetables for permit actions, and administrative mechanisms that describe least costly approaches.

SB 959 is supported by the California Apartment Association and opposed by the American Planning Association-California Chapter, California State Association of Counties, League of California Cities, and Madera County. This measure passed the Senate Local Government Committee on April 12, 2010 by a vote of 5 to 0 and now proceeds to the Senate Environmental Quality Committee.

SB 1006 (Pavley), as amended on April 5, 2010, would require the Strategic Growth Council (created by SB 732 (Steinberg) of 2008) to provide guidelines and information to local agencies to assist agencies in developing and implementing climate change adaptation strategies and projects that use nonstructural approaches to protect communities and protect or enhance natural ecosystem functions. It would also expand the eligible applicants for the urban greening project and planning grants to also include

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a council of governments, countywide authority, metropolitan planning organization, special district, and joint powers authority.

SB 1006 is co-sponsored by Audubon California, Defenders of Wildlife and the Nature Conservancy, and supported by: California Coastkeeper Alliance, California Outdoor Heritage Alliance, Mountains Recreation & Conservation Authority, Tree People, and Watershed Conservation Authority. It is opposed (unless amended) by the California Central Valley Flood Control Association. This measure passed the Senate Natural Resources Committee on April 13, 2010 by a vote of 6 to 3, and now proceeds to the Senate Environmental Quality Committee.

SB 1156 (Cedillo), as amended on April 5, 2010, would appropriate \$10 million from the Air Quality Improvement Fund to the State Air Resources Board to provide direct grants to owners of on-road heavy-duty diesel-fueled motor vehicles in order to purchase equipment for compliance with any regulation adopted by the State Board for the reduction of air pollution from those vehicles. Support and opposition to SB 1156 is currently unknown. This measure is currently awaiting a hearing date in the Senate Transportation and Housing Committee.

We will continue to keep you advised.

WTF:RA
EW:sb

c: All Department Heads
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California Contract Cities Association
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League of California Cities
City Managers Associations
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